* BEFORE THE IN RE: PETITION FOR SPECIAL HEARING & ZONING VARIANCE

* ZONING COMMISSIONER S/S Smith Ave., 25 ft. E of c/l Edenvale Road * OF BALTIMORE COUNTY 2201 Smith Avenue 3rd Election District * Case No. 92-204-SPHA 2nd Councilmanic District

Bonnie View Country Club, Inc. * Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as both a Petition for Special Hearing and Petition for Zoning Variance. As to the Petition for Special Hearing, the Petitioner seeks an amendment of the Special Exception granted in case No. 88-56-XSPHA to include a 3,900 (+/-) sq. ft. addition to the dining area, and to determine that the parking calculations, as shown on the Plat accompanying the Petition, are proper. As to the Petition for Zoning Variance, the Petitioner seeks relief from Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 358 existing parking spaces in lieu of the required 473 spaces.

The Petitioner, Bonnie View Country Club, Inc., by its President, Samuel Blibaum, appeared, testified and was represented by Julius W. Lichter, Esquire and Kathryn Turner, Esquire. Also appearing on behalf of the Petition was James Grammar, a Professional Engineer from McGee and Associates, David Mayhew, the Architect for the proposed improvements, and Lee N. Sachs. There were no Protestants present.

Testimony presented was that the Petitioner owns approximately 163 acres (+/-) which are shown on the site plan as parcels 1 and 2. The parcels are transected by Smith Avenue and parcel 1 straddles the Baltimore

City/Baltimore County line. Since, at least, 1932, there has been in existence a golf club on the site, known as the Bonnie View Country Club, Inc. This is a private club in which there are approximately 475 family members. The property is improved currently with an existing 18 hole golf course, a club house, tennis courts, a pool and related amenities.

The zoning history of this tract is significant. Within case No. 88-56-XSPHA, the Zoning Commissioner granted a special exception for use of the subject property as a country club/golf course, housing a club house and a number of then existing and similar ancillary facilities and buildings. Further, a special hearing for the nonconforming use was granted and a variance permitting 367 parking spaces, in lieu of the required 443 spaces, was also approved.

Presently, the Petitioner proposes to expand the existing club house. Although the building footprint size will remain the same, there is proposed an addition to the upper level over top of the existing deck. Further, the Petitioner testified that, although there were no definitive regulations to compute the necessary parking, they have employed a combined uses approach to determine the amount required. By combining all of the separate and distinct uses which are on site, they have determined that 473 parking spaces would be required. The variance requested, in order to permit parking as shown on the plat, indicates that 358 spaces are provided.

The Petitioner argues that the variance should be granted for a number of reasons. First, there is no planned expansion to the membership of the facility. That is, although the clubhouse would be enlarged, the Petitioner's club is a closed membership and there are no plans to expand the number of families who are currently members. Thus, the proposed improvements are not being constructed to enlarge the number of people being served; only the area of service.

Secondly, the Petitioner notes that, with the lengthy history of this site, they have been able to properly gauge the need for parking spaces. They also note that all of the spaces are never utilized in any single time, in that all of the separate amenities are not operated to capacity at anyone time. For example, the peak times for the golf course are quite different than those for the clubhouse.

Lastly, Mr. Grammar, the Engineer for the site, noted that practical difficulty would result if additional spaces need be installed. In that scenario, it would be necessary to redesign and reconfigure the existing course. As noted, the course has been in place for many years.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App.

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in subscantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore day of January, 1992, that the Petition for Special Hearing seeking an amendment of the Special Exception granted in case No. 88-56-XSPHA, to include a 3,900 (+/-) sq. ft. addition to the dining area; and to determine that the parking calculations as shown on the Plat accompanying the Petition are acceptable, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance seeking relief from Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 358 existing parking spaces, in lieu of the required 473, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANT-ED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

> 1. The Petitioner may apply for its building permit and be granted same upon receipt of this

Petition for Special Hearing

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

to the Zoning Commissioner of Baltimore County 92-204-SPHA

-4-

Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

IT IS FURTHER ORDERED that all prior zoning Orders and restrictions pertaining to the subject property shall be incorporated herein as if set forth in their entirety, and shall be given the full force and effect of law except where inconsistent herewith.

> Zoning Commissioner Baltimore County

LES:mmn

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

(410) 887-4386

January 6, 1992

Julius W. Lichter, Esquire 305 W. Chesapeake Avenue Towson, Maryland 21204

> RE: Petitions for Special Hearing and Zoning Variance Case No. 92-204-SPHA Bonnie View Country Club, Inc., Petitioner

Dear Mr. Lichter:

Suite 113 Courthouse

Towson, MD 21204

400 Washington Avenue

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

> Zoning Commissioner for Baltimore County

cc: James Grammer David Mayhew Samuel Blibaum Lee N. Sachs

Petition for Variance to the Zoning Commissioner of Baltimore County 92-204-5PHA The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.6 to permit 358 existing parking spaces in lieu of the required 473. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) due to the size, shape, and existing improvement of the site and for additional reasons, as will be presented at the public

Property is to be posted and advertised as prescribed by Zoning Regulations.

Contract Purc	thuser/Leasee:
(Type or Pri	nt Name)
Signature	
Address	
City and Stat	le
Attorney for F	Petitioner:
Julius (Type or Pri	W. Lighter, Esquire
(Chesapeake Avenue #113
TOWSON,	Maryland 21204
	lephone No.: (301) 321-0600

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this I'etition.
Legal Owner(s):
Bonnie View Country Club, Inc.
(Type or Print Name)
Duffluer-
Sterniere
By: Samuel Blibaum, President
(Type or Print Name)
Signature
2201 Smith Avenue
Address Phone No.
Baltimore, Maryland 21209
City and State
Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted
Julius W. Lichter, Esquire
Name305 W. Chesapeake Ave. #1
Towson, MD 21204 (301) 321-
Address Phone No.
DEFICE USE ONLY

ESTIMATED LENGTH OF HEARING -1/2HR.

HON./TUES./WED. - NEXT TWO HONTHS
ALL OTHER

AVAILABLE FOR HEARING

to amend the special exception granted in Case #88-56-XSPHA to include a 3,900+ square foot addition to the dining area; to determine that the parking calculations as shown on the accompanying Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and estrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee Legal Gwner(s): Bonnie View Country Club, Inc. (Type or Print Name) (Type or Print Name) By: Samuel Blibaum, President City and State Attorney for Petitioner: Julius W. Lichter, Esquire 2201 Smith Avenue Baltimore, Maryland 21209 305 W. Chesapeake Ave. #113 l-ame, address and phone number of legal owner, contract purchaser or representative to be contacted Towson, Maryland 21204 Julius W. Lichter, Esquire City and State Name 305 W. Chesapeake Ave. #113 Attorney's Telephone No.:(301) 321-0600 -0600

Towson, MD 21204 (301) 321-0600 AVAILABLE FOR HEARING HON./TUES./WED. - NEXT TWO MONTHS REVIEWED BY: MOTH

hearing.

 \mathbf{c}

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

92.204.SPHA. DESCRIPTION OF BONNIE VIEW COUNTRY CLUB THIRD ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

Parcel One

Beginning for the same at the centerline intersection of Smith Avenue (66.00 feet wide) and Edenvale Road (50.00 feet wide), thence running North 86 $^{
m o}$ 01' 40" East 1226.52 feet, thence South 30 58' 20" East 68.60 feet, thence South 89 23' East 150.3 feet, thence North 3 58' 20" West 77.31 feet, thence Easterly 83 feet, thence Southerly 82 feet, thence North 890 23' East 456.21 feet, thence South 2° 59' 13" West 1656.14 feet, thence North 51° 21' 20" West 581.79 feet, thence North 83 05' 10" West 519.68 feet, thence South 0° 42' East 961.00 feet, thence South 88° 02' 35" West 1073.45 feet, thence North 50 18' 25" East 2210.82 feet to the point of beginning. Containing 81.41 acres more or less.

Parcel Two Reginning for the same at a point situated 1320.00 feet more or less northeasterly, from Edenvale Road, at the center of Smith Avenue 66.00 feet wide, thence running North 04° 01' East 380.00 feet, thence North 03° 38' East 1202.00 feet, thence North 83° 45' West 810.00 feet, thence South 61° 45' West 256.00 feet, thence North 88° 45' West 24.75 feet, thence North 88° 45' West 928.75 feet, thence South 36° 21' East 242.00 feet, thence South 53° 39' West 720.00 feet, thence North 0°07 ' West 428.9 feet, thence South 01° 15' West 350.00 feet, thence South 88° 45' East 300.00 feet, thence South 01° 15' West 75.00, thence South 88° 45' East 75.00 feet, South 01° 15' West 75.00 feet to the center of Smith Avenue, thence binding on the centerline South 87 21' East Description of Bonnie View Country Club

295.00 feet, thence South 85 59' East 330.00 feet, thence South 88 29' East 360.00 feet, thence South 88 14' East 446.00 feet, thence leaving said centerline of Smith Avenue and running North 01 0 15' East 470.00 feet, thence South 88 45' East 316.00 feet, thence South 04 01' West 214.00 feet, thence South 06 05' West 262.00 feet to the centerline of Smith Avenue, thence South 88 14' East 50.00 feet to the point of beginning, containing 81.5 acres more or

The above parcels being known as #2201 Smith Avenue.



Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

DATE: 1 26 41

Bonnie View Country Club, Inc. 2201 Smith Avenue Baltimore, Maryland 21209

Dear Petitioner(s):

S/S Smith Avenue, 25' E of c/l Edenvale Road 2201 Smith Avenue 3rd Election District - 2nd Councilmanic Petitioner(s): Bonnie View Country Club, Inc.

Please be advised that $\frac{1/S}{2}$ is due for advertising and posting of the above captioned THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE REFURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE

Please forward your check via return smil to the Zoning Office, County Office Building, 111 W. Chesapeaks Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made avenue, such its, toward, recytand sizer. It shaded have your come number broke timber county, maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

887-3353

111 West Chesapeake Avenue Towson, MD 21204

NOVEMBER 18, 199

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-204-SPHA S/S Smith Avenue, 25' E of c/l Edenvale Boad 2201 Smith Avenue 3rd Election District - 2nd Councilsonic Petitioner(s): Bonnie View Country Club, Inc. HEARING: WEDNESDAY, DECEMBER 11, 1991 at 11:00 a.m.

Special Hearing to amend the special exception granted in Case #88-56-XSPHA to include a 3,900 (+/-) square foot addition to the diming area; to determine that the perking calculations as shown on the plat Variance to permit 358 existing parking spaces in lieu of the required 473.

Baltimore County

Julius W. Lichter, Esq.

92-204-SPHA

Posted for: Speciac Hearing and Potitioner: Donnie View Country	, Date of Posting November 23, 1991.
Posted for special Hearing und	Lavance
Petitioner: Bonnie Liver Country	Club mc.
Location of property: \\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	13 E of C/L countries work
Location of Signer Smith Chronic Copp Road	next. 100 East of Edenvale
Remarks:	^
Posted by Signature	Date of return: Leconics 3,1991
Number of Signe:	

CERTIFICATE OF PUBLICATION

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HOTICE OF HEARING
The Zoning Commissioner of Seltimore County, by authority of
Salumore Courty, by alternary of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property dentified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, 7, 2000.
public hearing on the property
Beltimore County Courthouse,
Towson, Maryland 21204 as fol- lows:
Case Number 92-204-SPHA
S/S Smith Avenue, 25° E of C' Edenvele Road
2201 Smith Avenue 3rd Flection District
2nd Councilmanic Patitioner(s): Bonnie View Country Club,
ino
Hearing Date: Wednesday, December 11, 1991 at
11:00 a.m.
Special Hearing: to amend the special exception granted in Case #68-56-XSPHA to include
a 3,900 (+7-) aguare too elemine to the dining area; to determine that the parking calculations as shown on the plat are acceptable. Variance: to permit 358 existing
Variance: to permit 358 existing parting spaces in lieu of the re-
quired 473.
LAWRENCE E. SCHMIDT Zoning Commissioner of Baltimore County
C/J/11/222 November 21.

111-15 19-11 THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of _____successive weeks, the first 112-21

CATONSVILLE TIMES

S	•	Zefe		Prop
			Publisher	

Baltimore County Government
Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson MD 21204

887-3353

(410) 887-3353

December 2, 1991

Julius W. Lichter, Esquire 305 W. Chesapeake Avenue, Suite 113 Towson, MD 21204

> RE: Item No. 210, Case No. 92-204-SPHA Petitioner: Bonnie View Country Club Petition for Special Hearing and Zoning Variance

Dear Mr. Lichter:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

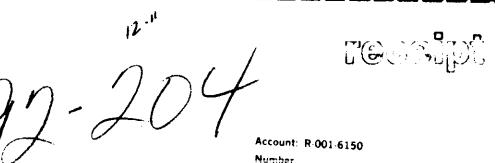
Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 100.25, 1991 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on 20021, 1991.



Please Make Checks Payable To: Baltimore County

Zoning Plans Advisory Committe Coments Date:December 2, 1991

> 2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the peition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or imcompleteness.

> Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

> > Zoning Plans Advisory Committee

JED:jw

Cashler Validation

Baltimore Counts

County Office Building

Zoning Commisioner

111 West Chesapeake Avenue owson. Maryland 21204

Enclosures

cc: Mr. Samuel Blibaum Bonnie View Country Club, Inc. 2201 Smith Avenue Baltimore, MD 21209

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

1 West Chesapeake Avenue C. (Son, MD 2120) (410) 887-3353

Your petition has been received and accepted for filing this 25th day of October, 1991.

ARNOLD JABLAN
DIRECTOR

Received By:

Chairman, Zoning Plans Advisory Committee

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Petitioner: Samuel Blibaum, et al

Petitioner's Attorney: Julius W. Lichter

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FUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: November 27, 1991

Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

FROM: Rahee J. Famili

Z.A.C. MEETING DATE: November 12, 1991

This office has no comments for item numbers 210, 212, 213, 214, 217 and 218.

Rahee J. Famili
Traffic Engineer II

RJF/lvd

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
301-539-3700
TELECOPIER 301-625-9050

LAW OFFICES

LEVIN & GANN

A PROFESSIONAL ASSOCIATION

305 W. CHESAPEAKE AVENUE

TOWSON, MARYLAND 21204

301-321-0600

TELECOPIER 301-296-2801

November 1, 1991

ELLIS LEVIN (1893-1960)

CARROLL COUNTY OFFICE
1137 LIBERTY ROAD
SYKESVILLE, MD 21784

JULIUS W. LICHTER

HAND-DELIVERED

Lawrence Schmidt, Zoning Commissioner
Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Bonnie View Country Club
Item #210

Dear Commissioner Schmidt:

On October 25, 1991 we filed a Petition for Special Hearing and a Petition for Variance on behalf of the Bonnie View Country Club. The matter has been assigned Item #210.

The zoning approvals are needed in order to make a small addition to the dining room of the Country Club. Our client would like to proceed with this improvement as soon as possible in order to minimize the disruption to the Club. Thus, we would greatly appreciate this matter being scheduled for the earliest possible

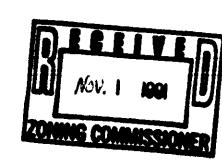
Thank you for considering this request. Please advise me as to the scheduled hearing date.

Sincerely,

Julius Lichter

Julius W. Lichter

JWL/



BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: November 25, 1991
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: Tracy/Martin Property, Item No. 219
Bonnie View Country Club, Item No. 210
McKinney Property, Item No. 227

In reference to the Petitioners' request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PETITIONER(S) SIGN-IN SHEET

305 W CHELAPENE AUE. 21204

305 W. CHESAGENER AVE 21204

+31-57,519 W. PROTI ST. 21201

341 N CHLVERT ST ZIZOZ

341 N. CALVERT ST. 21202

5 SHAWAN ROAD 21030

PK/JL/rdn ITEM219/TXTROZ

PLEASE PRINT CLEARLY

JAMES GRAMMER

DAVID HAVHEW

SAN BLIBAUM

LEE N SACHS

KATHAN TURVER ESG

JULIUSLO. LICHTER ESQ

Baltimore County Government
Fire Department

NOVEMBER 26, 1991

700 East Joppa Road Suite 901 Towson, MD 21204-5500

(301) 887 4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: BONNIE VIEW COUNTRY CLUB, INC.

Location: #2201 SMITH AVENUE

Item No.: 210 Zoning Agenda: NOVEMBER 12, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

Planning Group

Special Inspection Division

Noted and
Approved
Fire Prevention Bureau

JP/KEK

